

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.Rev.Pet.No. 3152 of 2007()

CC.872/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

REVN. PETITIONER: PETITIONER/COMPLAINANT

**PASHUPALAN NAIR, S/O.KUTTAN NAIR,
CHERIYAMPALLOOR VEEDU, KAVANADU P.O.,
KOLLAM.**

**BY ADV. SRI.K.RAMACHANDRAN
SMT.R.MEERA**

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**
- 2. P.RAJAN BABU NAIR, S/O.PARAMU NAIR,
LAKSHMI BHAVAN, THRIKKOVILVATTOM,
MUKHATHALA P.O., KOLLAM.**

BY

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. RAMKUMAR, J.

.....
Cri. R.P. No. 3152 OF 2007
.....

Dated this the 24th day of August, 2007

O R D E R

The complainant in a private complaint under section 138 of the Negotiable Instruments Act challenges the order dated 16.12.06 passed by the JFCM-II, Kollam dismissing the complaint under section 204(4) Cr.P.C. for the absence of the complainant and also for the failure on his part to take steps.

2. Since the complaint was dismissed before issue of process to the accused, notice to the 2nd respondent/accused is dispensed with.

3. The learned counsel for the revision petitioner submits that steps had been taken and that there was no willful default or negligence on the part of the complainant in not prosecuting the complaint. In the fitness case of things, the court below should have given the complainant an opportunity to take steps and prosecute the complainant rather than dismissing the complaint. Accordingly, the impugned order is set aside and C.C.872/03 will stand restored to file. The revision petitioner shall appear before the court below without any further notice on 19.9.07 by which time he shall have taken the necessary steps for the further progress of the complaint.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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